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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/828,497	04/05/2001	Dustin M. Davis	027448.0008	6818

22202 7590 06/13/2005

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MILWAUKEE, WI 53202

EXAMINER

BACKER, FIRMIN

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/828,497

**Applicant(s)**

DAVIS ET AL.

**Examiner**

Firmin Backer

**Art Unit**

3621

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-68 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-68 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

***Response to Amendment***

1. This is in response to an amendment file on August 10<sup>th</sup>, 2004. In the amendment, claims 1, 21, 3 and 55 have been amended, no claim has been canceled, and no claim has been added. Claims 1-68 remain pending in the letter.

***Response to Arguments***

2. Applicant's arguments with respect to claims 1-68 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pare, Jr. et al (U.S. PG Pub No. 2001/0039533 A1) in view of Hamid et al (U.S. Patent No. 6,498,861).
5. As per claims 1, 21, 35 and 55, Pare Jr. et al teach a method/computer readable medium for consummating a transaction based on transactional histories in a biometric verification system that stores enrollment data and identification data comprising primary identification data,

Art Unit: 3621

secondary identification data, if any, financial account data, if any, and a master template for each biometric sample for an applicant (*see abstract and summary of the invention*), comprising

a. receiving unrestricted identification data from the applicant (*see paragraph 0032*) retrieving all master templates associated with the identification data (*see paragraph 0117*) generating a template from the image (*see 00117*) e. consummating the transaction if the template corresponds to the master template according to predefined criteria and if the system receives authorization for the consummation when a flag is set against the identification data (*see paragraphs 0032*). Pare et al fail to teach an inventive concept of receiving a live image of a biometric sample from the applicant. However, Hamid et al teach receiving a live image of a biometric sample from the applicant (*see column 9 line 41-10 line 21*). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the inventive concept of Pare et al's to include Hamid et al's receiving a live image of a biometric sample from the applicant because this would have provided a system wherein registration of authorized users requires less information from a user since information inherent to the database of templates is used to more accurately register biometric information and biometric data provided from an individual.

6. As per claims 2, 3, 22, 23, 36, 37, 56 and 57, Pare Jr. et al teach a method/computer readable medium wherein the transaction comprises a financial/non-financial transaction (*see abstract*).

Art Unit: 3621

7. As per claims 4-6, 38-40, Pare Jr. et al teach a method/computer readable medium wherein the flag is set against primary, secondary identification data and financial account data (*see paragraph 0034, 0035*).

8. As per claims 7 and 42, Pare Jr. et al teach a method/computer readable medium comprising an additional step of presenting flag data if the flag is set (*see paragraphs 0037*).

9. As per claims 8, 9, 42 and 43, Pare Jr. et al teach a method/computer readable medium wherein the system consummates the transaction based on receipt of authorization based on the presentation (*see paragraphs 0032 and 0117*).

10. As per claims 10-20, 24-35, 44-54 and 58-68, Pare Jr. et al teach a method/computer readable medium wherein the system stores multiple master templates for each biometric sample such as fingerprint, voiceprint, a handprint, hand, facial geometry/ recognition, iris/retinal scan, thermal imaging for the applicant (*see claim 18*).

### ***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

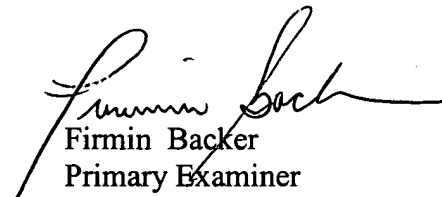
Art Unit: 3621

MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Firmin Backer whose telephone number is (571) 272-6703. The examiner can normally be reached on Mon-Thu 9:00 AM - 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Firmin Backer  
Primary Examiner  
Art Unit 3621

June 9, 2005